

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AIMEE LEIGH EDLIN,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security  
Administration,

Defendant.

NO: 13-CV-3106-TOR

ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT

BEFORE THE COURT are the parties' cross-motions for summary judgment (ECF Nos. 16 and 20). Thomas Bothwell represents Plaintiff. Sarah L. Martin represents Defendant. The Court has reviewed the administrative record and the parties' completed briefing and is fully informed. For the reasons discussed below, the Court grants Defendant's motion and denies Plaintiff's motion.

## JURISDICTION

The Court has jurisdiction over this case pursuant to 42 U.S.C. § 405(g); 1383(c)(3).

## STANDARD OF REVIEW

A district court's review of a final decision of the Commissioner of Social Security is governed by 42 U.S.C. § 405(g). The scope of review under §405(g) is limited: the Commissioner's decision will be disturbed "only if it is not supported by substantial evidence or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153, 1158-59 (9th Cir. 2012) (citing 42 U.S.C. § 405(g)). "Substantial evidence" means relevant evidence that "a reasonable mind might accept as adequate to support a conclusion." *Id.* at 1159 (quotation and citation omitted). Stated differently, substantial evidence equates to "more than a mere scintilla[,] but less than a preponderance." *Id.* (quotation and citation omitted). In determining whether this standard has been satisfied, a reviewing court must consider the entire record as a whole rather than searching for supporting evidence in isolation. *Id.*

In reviewing a denial of benefits, a district court may not substitute its judgment for that of the Commissioner. If the evidence in the record "is susceptible to more than one rational interpretation, [the court] must uphold the ALJ's findings if they are supported by inferences reasonably drawn from the record." *Molina v. Astrue*, 674 F.3d 1104, 1111 (9th Cir. 2012). Further, a district

1 court “may not reverse an ALJ’s decision on account of an error that is harmless.”  
 2 *Id.* at 1111. An error is harmless “where it is inconsequential to the [ALJ’s]  
 3 ultimate nondisability determination.” *Id.* at 1115 (quotation and citation omitted).  
 4 The party appealing the ALJ’s decision generally bears the burden of establishing  
 5 that it was harmed. *Shinseki v. Sanders*, 556 U.S. 396, 409-10 (2009).

### 6 **FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

7 A claimant must satisfy two conditions to be considered “disabled” within  
 8 the meaning of the Social Security Act. First, the claimant must be “unable to  
 9 engage in any substantial gainful activity by reason of any medically determinable  
 10 physical or mental impairment which can be expected to result in death or which  
 11 has lasted or can be expected to last for a continuous period of not less than twelve  
 12 months.” 42 U.S.C. §§ 423(d)(1)(A); 1382c(a)(3)(A). Second, the claimant’s  
 13 impairment must be “of such severity that he is not only unable to do his previous  
 14 work[,] but cannot, considering his age, education, and work experience, engage in  
 15 any other kind of substantial gainful work which exists in the national economy.”  
 16 42 U.S.C. §§ 423(d)(2)(A); 1382c(a)(3)(B).

17 The Commissioner has established a five-step sequential analysis to  
 18 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R. §§  
 19 404.1520(a)(4)(i)-(v); 416.920(a)(4)(i)-(v). At step one, the Commissioner  
 20 considers the claimant’s work activity. 20 C.F.R. §§ 404.1520(a)(4)(i);

1 416.920(a)(4)(i). If the claimant is engaged in “substantial gainful activity,” the  
2 Commissioner must find that the claimant is not disabled. 20 C.F.R. §§  
3 404.1520(b); 416.920(b).

4 If the claimant is not engaged in substantial gainful activities, the analysis  
5 proceeds to step two. At this step, the Commissioner considers the severity of the  
6 claimant’s impairment. 20 C.F.R. §§ 404.1520(a)(4)(ii); 416.920(a)(4)(ii). If the  
7 claimant suffers from “any impairment or combination of impairments which  
8 significantly limits [his or her] physical or mental ability to do basic work  
9 activities,” the analysis proceeds to step three. 20 C.F.R. §§ 404.1520(c);  
10 416.920(c). If the claimant’s impairment does not satisfy this severity threshold,  
11 however, the Commissioner must find that the claimant is not disabled. *Id.*

12 At step three, the Commissioner compares the claimant’s impairment to  
13 several impairments recognized by the Commissioner to be so severe as to  
14 preclude a person from engaging in substantial gainful activity. 20 C.F.R. §§  
15 404.1520(a)(4)(iii); 416.920(a)(4)(iii). If the impairment is as severe or more  
16 severe than one of the enumerated impairments, the Commissioner must find the  
17 claimant disabled and award benefits. 20 C.F.R. §§ 404.1520(d); 416.920(d).

18 If the severity of the claimant’s impairment does meet or exceed the severity  
19 of the enumerated impairments, the Commissioner must pause to assess the  
20 claimant’s “residual functional capacity.” Residual functional capacity (“RFC”),

1 defined generally as the claimant's ability to perform physical and mental work  
2 activities on a sustained basis despite his or her limitations (20 C.F.R. §§  
3 404.1545(a)(1); 416.945(a)(1)), is relevant to both the fourth and fifth steps of the  
4 analysis.

5 At step four, the Commissioner considers whether, in view of the claimant's  
6 RFC, the claimant is capable of performing work that he or she has performed in  
7 the past ("past relevant work"). 20 C.F.R. §§ 404.1520(a)(4)(iv);  
8 416.920(a)(4)(iv). If the claimant is capable of performing past relevant work, the  
9 Commissioner must find that the claimant is not disabled. 20 C.F.R. §§  
10 404.1520(f); 416.920(f). If the claimant is incapable of performing such work, the  
11 analysis proceeds to step five.

12 At step five, the Commissioner considers whether, in view of the claimant's  
13 RFC, the claimant is capable of performing other work in the national economy.  
14 20 C.F.R. §§ 404.1520(a)(4)(v); 416.920(a)(4)(v). In making this determination,  
15 the Commissioner must also consider vocational factors such as the claimant's age,  
16 education and work experience. *Id.* If the claimant is capable of adjusting to other  
17 work, the Commissioner must find that the claimant is not disabled. 20 C.F.R. §§  
18 404.1520(g)(1); 416.920(g)(1). If the claimant is not capable of adjusting to other  
19 work, the analysis concludes with a finding that the claimant is disabled and is  
20 therefore entitled to benefits. *Id.*

1 The claimant bears the burden of proof at steps one through four above.  
2 *Lockwood v. Comm’r of Soc. Sec. Admin.*, 616 F.3d 1068, 1071 (9th Cir. 2010). If  
3 the analysis proceeds to step five, the burden shifts to the Commissioner to  
4 establish that (1) the claimant is capable of performing other work; and (2) such  
5 work “exists in significant numbers in the national economy.” 20 C.F.R. §§  
6 404.1560(c); 416.960(c)(2); *Beltran v. Astrue*, 700 F.3d 386, 389 (9th Cir. 2012).

### 7 **ALJ’S FINDINGS**

8 Plaintiff applied for disability insurance benefits and supplemental security  
9 income disability benefits on February 16, 2010, alleging a disability onset date of  
10 October 31, 2009. Tr. 149-55; 156-59. Her claims were denied initially and upon  
11 reconsideration. Tr. 83-85, 91-96, 97-103. Plaintiff appeared for a hearing before  
12 an administrative law judge (“ALJ”) on December 5, 2011. Tr. 42-78. The ALJ  
13 issued a decision denying Plaintiff benefits on February 29, 2012. Tr. 12-32.

14 The ALJ found that Plaintiff met the insured status requirements of Title II  
15 of the Social Security Act through December 31, 2015. Tr. 17. At step one, the  
16 ALJ found that Plaintiff had not engaged in substantial gainful activity since  
17 October 31, 2009, the alleged onset date. *Id.* At step two, the ALJ found that  
18 Plaintiff had the following severe impairments: seizure disorder; headache  
19 disorder; and cognitive disorder, not otherwise specified. *Id.* at 18. At step three,  
20 the ALJ found that Plaintiff’s severe impairments did not meet or medically equal

1 a listed impairment. *Id.* at 18-19. The ALJ then determined that Plaintiff had the  
2 residual functional capacity (“RFC”) to

3 perform a reduced range of light work. The claimant can perform  
4 work that does not involve lifting and/or carrying more than 10  
5 pounds frequently or more than 20 pounds occasionally; standing  
6 and/or walking for more than a total of 6 hours in an 8-hour workday  
7 with normal breaks; any climbing of ladders, ropes, or scaffolds; any  
8 exposure to hazards, including unprotected heights or moving  
9 machinery; more than occasional ramp or stair climbing; more than  
10 occasional balancing, kneeling, crouching, or crawling; or moderate  
11 exposure to noise or vibration. Additionally, the claimant can perform  
12 lower-level semi-skilled work that does not require greater than level-  
13 3 special vocational preparation (SVP3) or more than superficial  
14 contact with the general public.

15 *Id.* at 20. At step four, the ALJ found that Plaintiff was unable to perform any past  
16 relevant work. *Id.* at 25. At step five, the ALJ found that Plaintiff could perform  
17 other work existing in significant numbers in the national economy in  
18 representative occupations, such as small products assembler, light packaging  
19 worker, and electronic worker. *Id.* at 26. Thus, the ALJ concluded that Plaintiff  
20 was not disabled under the Social Security Act and denied her claims on that basis.  
*Id.* at 26-27.

On March 26, 2012, Plaintiff requested review of the ALJ’s decision by the  
Appeals Council. *Id.* at 9-11. The Appeals Council denied Plaintiff’s request for  
review on September 9, 2013, *id.* at 1-8, making the ALJ’s decision the

1 Commissioner's final decision for purposes of judicial review. 20 C.F.R. §§  
2 404.981, 416.1484, and 422.210.

### 3 ISSUES

4 Plaintiff seeks judicial review of the Commissioner's final decision denying  
5 her disability insurance benefits and supplemental security income disability  
6 benefits under Title II and Title XVI of the Social Security Act. Plaintiff has  
7 raised the following three issues for this Court's review:

- 8 1. Whether the ALJ erred in assessing Plaintiff's credibility;
- 9 2. Whether the ALJ erred in rejecting Dr. Degooyer's medical opinion; and
- 10 3. Whether the ALJ failed to pose a legally sufficient hypothetical question,  
11 including all Plaintiff's limitations, to the vocational expert.

12 ECF No. 16 at 9-10.

### 13 DISCUSSION

#### 14 A. Adverse Credibility Determination

15 In social security proceedings, a claimant must prove the existence of  
16 physical or mental impairment with "medical evidence consisting of signs,  
17 symptoms, and laboratory findings." 20 C.F.R. §§ 416.908; 416.927. A  
18 claimant's statements about his or her symptoms alone will not suffice. 20 C.F.R.  
19 §§ 416.908; 416.927. Once an impairment has been proven to exist, the claimant  
20 need not offer further medical evidence to substantiate the alleged severity of his or



1 her symptoms. *Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir. 1991) (en banc).

2 As long as the impairment “could reasonably be expected to produce [the]  
3 symptoms,” the claimant may offer a subjective evaluation as to the severity of the  
4 impairment. *Id.* This rule recognizes that the severity of a claimant’s symptoms  
5 “cannot be objectively verified or measured.” *Id.* at 347 (quotation and citation  
6 omitted).

7 If an ALJ finds the claimant’s subjective assessment unreliable, “the ALJ  
8 must make a credibility determination with findings sufficiently specific to permit  
9 [a reviewing] court to conclude that the ALJ did not arbitrarily discredit claimant’s  
10 testimony.” *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002). In making  
11 this determination, the ALJ may consider, *inter alia*: (1) the claimant’s reputation  
12 for truthfulness; (2) inconsistencies in the claimant’s testimony or between his  
13 testimony and his conduct; (3) the claimant’s daily living activities; (4) the  
14 claimant’s work record; and (5) testimony from physicians or third parties  
15 concerning the nature, severity, and effect of the claimant’s condition. *Id.* If there  
16 is no evidence of malingering, the ALJ’s reasons for discrediting the claimant’s  
17 testimony must be “specific, clear and convincing.” *Chaudhry v. Astrue*, 688 F.3d  
18 661, 672 (9th Cir. 2012) (quotation and citation omitted). The ALJ “must  
19 specifically identify the testimony she or he finds not to be credible and must  
20

1 explain what evidence undermines the testimony.” *Holohan v. Massanari*, 246  
2 F.3d 1195, 1208 (9th Cir. 2001).

3 Plaintiff contends that the ALJ improperly discredited her credibility. ECF  
4 No. 16 at 16-18. This Court disagrees. The ALJ provided the following specific,  
5 clear, and convincing reasons supported by substantial evidence for finding  
6 Plaintiff’s statements “not credible to the extent they are inconsistent” with the  
7 RFC finding, Tr. 21: (1) Plaintiff’s statements were inconsistent with the objective  
8 medical evidence; (2) Plaintiff was not always compliant with prescribed  
9 treatment; (3) Plaintiff’s statements were inconsistent with her daily activities; and  
10 (4) Plaintiff made several inconsistent statements throughout the record.

11 First, the ALJ found that Plaintiff’s statements concerning the severity of her  
12 symptoms and limitations were inconsistent with the objective medical evidence.  
13 Tr. 21-22. In support, the ALJ highlighted the following: although Plaintiff  
14 complained of limitations from disabling seizures and vertigo, MRIs and other  
15 neurological testing did not support Plaintiff’s contentions (Tr. 21, 295, 297, 413,  
16 421, 461, 463, 464); similarly, although Plaintiff testified to severe symptoms  
17 associated with her headaches, normal neurologic examinations and diagnostic  
18 studies were inconsistent with the presence of disabling headaches (Tr. 22, 295,  
19 297, 413, 421, 461, 463, 464). These inconsistencies between Plaintiff’s alleged  
20

1 limitations and the objective medical evidence provided a permissible and  
2 legitimate reason for discounting Plaintiff's credibility. *Thomas*, 278 F.3d at 958.

3 Second, the ALJ found that Plaintiff's statements concerning the severity of  
4 her symptoms and limitations were inconsistent with less than full compliance with  
5 prescribed and recommended treatment. Tr. 21. For instance, the ALJ noted the  
6 following:

7 The claimant's failure to comply with treatment recommendations,  
8 including maintaining a headache diary, using a Day-Timer to  
9 increase information capture, and attending speech therapy for  
10 cognitive rehabilitation and physical therapy for vestibular  
rehabilitation undermine her credibility regarding any alleged  
subjective complaints or functional limitations secondary to these  
impairments.

11 Tr. 23 (citing Tr. 390-92, 413). These inconsistencies between Plaintiff's  
12 alleged limitations and her lack of compliance with treatment, provided a  
13 permissible and legitimate reason for discounting Plaintiff's credibility.  
14 *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th Cir. 2008) (finding that a  
15 plaintiff's "unexplained or inadequately explained failure to seek treatment  
16 or to follow a prescribed course of treatment" provided legitimate reason for  
17 rejecting claimant's credibility).

18 Third, the ALJ found Plaintiff's description of her daily activities  
19 inconsistent with the disabling symptoms and limitations alleged. Tr. 23.  
20 Although Plaintiff alleged disabling physical and mental impairments, the ALJ

1 found Plaintiff's daily activities—which included exercise at home, Pilates, taking  
2 her children to school, running errands, grocery shopping, doing the laundry,  
3 vacuuming, preparing dinner, and helping her children with homework—  
4 demonstrated Plaintiff capable of a reduced range of light work. Tr. 23. These  
5 inconsistencies between Plaintiff's alleged limitations and her reported daily  
6 activities provided a permissible and legitimate reason for discounting Plaintiff's  
7 credibility. *Thomas*, 278 F.3d at 958-59; *see also Orn v. Astrue*, 495 F.3d 625, 639  
8 (9th Cir. 2007) (finding that daily activities may be relevant to an adverse  
9 credibility finding either because they contradict a claimant's testimony or  
10 demonstrate abilities and skills that can easily transfer to a workplace setting).

11 Finally, the ALJ noted several inconsistencies throughout the record in  
12 Plaintiff's statements. For instance, Plaintiff testified to disabling headaches;  
13 however, Plaintiff's testimony described far more severe symptoms than ever  
14 reported to her treating or examining physicians. Tr. 22, 302, 405, 441, 445.  
15 Further, although Plaintiff testified that no medicine relieved her head pain,  
16 Plaintiff's past statements suggested that she experienced some improvement with  
17 treatment. Tr. 22, 413, 455. These inconsistencies between Plaintiff's statements  
18 provided a permissible and legitimate reason for discounting Plaintiff's credibility.  
19 *Thomas*, 278 F.3d at 958.

1 Accordingly, this Court concludes the ALJ did not err in discounting  
2 Plaintiff's credibility.

3 **B. Medical Opinion of Dr. Degooyer**

4 There are three types of physicians: "(1) those who treat the claimant  
5 (treating physicians); (2) those who examine but do not treat the claimant  
6 (examining physicians); and (3) those who neither examine nor treat the claimant  
7 [but who review the claimant's file] (nonexamining [or reviewing] physicians)."  
8 *Holohan*, 246 F.3d at 1201-02 (internal citations omitted). Generally, a treating  
9 physician's opinion carries more weight than an examining physician's, and an  
10 examining physician's opinion carries more weight than a reviewing physician's.  
11 *Id.* In addition, the regulations give more weight to opinions that are explained  
12 than to those that are not, and to the opinions of specialists concerning matters  
13 relating to their specialty over that of nonspecialists. *Id.* (citations omitted). A  
14 physician's opinion may be entitled to little if any weight, when it is an opinion on  
15 a matter not related to her or his area of specialization. *Id.* at 1203, n.2 (citation  
16 omitted).

17 A treating physician's opinions are entitled to substantial weight in social  
18 security proceedings. *Bray v. Comm'r of Soc. Sec. Admin.*, 554 F.3d 1219, 1228  
19 (9th Cir.2009). If a treating or examining physician's opinion is uncontradicted, an  
20 ALJ may reject it only by offering "clear and convincing reasons that are supported

1 by substantial evidence.” *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir.  
2 2005). “However, the ALJ need not accept the opinion of any physician, including  
3 a treating physician, if that opinion is brief, conclusory and inadequately supported  
4 by clinical findings.” *Bray*, 554 F.3d at 1228 (quotation and citation omitted). “If  
5 a treating or examining doctor’s opinion is contradicted by another doctor’s  
6 opinion, an ALJ may only reject it by providing specific and legitimate reasons  
7 that are supported by substantial evidence.” *Bayliss*, 427 F.3d at 1216 (citing  
8 *Lester*, 81 F.3d at 830-31). An ALJ may also reject a treating physician’s opinion  
9 which is “based to a large extent on a claimant’s self-reports that have been  
10 properly discounted as incredible.” *Tommasetti*, 533 F.3d at 1041 (internal  
11 quotation and citation omitted).

12 Plaintiff contends the ALJ erred by failing to properly reject the opinion of  
13 her treating physician, Dr. Brett Degooyer. ECF No. 16 at 11-16. Plaintiff points to  
14 Dr. Degooyer’s completion of a November 2011 Medical Questionnaire in which he  
15 checked the box opining that Plaintiff is not “capable of performing any type of  
16 work on a reasonably continuous, sustained basis.” *Id.*; Tr. 485. Plaintiff asserts  
17 that Dr. Degooyer’s opinion was well supported by other evidence in the record and  
18 Plaintiff’s credible statements concerning the extent of her pain. Tr. 11-16.

19 This Court finds the ALJ properly considered and rejected the medical  
20 opinion of Dr. Degooyer. Tr. 13-14. Because the opinion of Dr. Degooyer was

1 contradicted, *see* Tr. 23-24 (discussing the opinions of State agency medical  
2 consultants; Dr. Thompson, an examining neuropsychologist; and Dr. Devere, the  
3 medical expert, all of whom did not find Plaintiff incapable of work), the ALJ may  
4 reject only by offering specific and legitimate reasons supported by substantial  
5 evidence. *Bayliss*, 427 F.3d at 1216.

6       The ALJ provided specific and legitimate reasons for rejecting Dr.  
7 Degooyer's opinion. Tr. 24. First, the ALJ noted that Dr. Degooyer's opinion was  
8 based on the Plaintiff's subjective symptoms of neck and upper extremity pain and  
9 associated functional limitations. Tr. 24. As explained above, the ALJ determined  
10 Plaintiff's self-reporting was not credible. Specific to this examination, although  
11 Plaintiff alleged limitations regarding head motion and arm lifting, other evidence  
12 in the record indicated that Plaintiff reported only intermittent neck and upper  
13 extremity limitations. Tr.24, 475. Further, at the hearing, Plaintiff did not testify  
14 to any neck or upper extremity pain despite the opportunity to testify about all her  
15 impairments and the reasons for her inability to work. Tr. 24; *see* Tr. 56-72.

16 Because the ALJ need not accept a medical opinion based on a claimant's non-  
17 credible self-reporting, *Tomasetti*, 533 F.3d at 1041, the ALJ properly rejected this  
18 diagnosis.

19       Second, the ALJ noted that Dr. Degooyer's opinion was not supported by  
20 the evidence in the record. Tr. 24. Although Plaintiff contends that Dr.

1 Degoooyer's opinion is supported by ample evidence, ECF No. 16 at 11-14, she  
2 merely recounts all Plaintiff's limitations, rather than evidence that specifically  
3 supports Dr. Degoooyer's opinion that Plaintiff was incapable of work. In contrast,  
4 the ALJ found the objective medical evidence and other opinion evidence  
5 regarding Plaintiff's intermittent neck and upper extremity pain more appropriately  
6 supported a reduced range of light work. Tr. 23-24, 475. Because the ALJ need  
7 not accept a medical opinion that is "brief, conclusory, and inadequately supported  
8 by clinical findings," *Bray*, 554 F.3d at 1228, the ALJ provided another specific  
9 and legitimate reason for rejecting Dr. Degoooyer's opinion. Accordingly, the ALJ  
10 did not err in rejecting Dr. Degoooyer's opinion.

### 11 **C. Hypothetical Question Posed to Vocational Expert**

12 "Hypothetical questions posed to the vocational expert must set out *all* the  
13 limitations and restrictions of the particular claimant...." *Embrey v. Bowen*, 849 F.2d  
14 418, 422 (9th Cir. 1988). "Unless the record indicates that the ALJ had specific and  
15 legitimate reasons for disbelieving a claimant's testimony as to subjective limitations  
16 such as pain, those limitations must be included in the hypothetical in order for the  
17 vocational expert's testimony to have any evidentiary value." *Embrey*, 849 F.2d at  
18 423. "If the assumptions in the hypothetical are not supported by the record, the  
19 opinion of the vocational expert that claimant has a residual working capacity has no  
20 evidentiary value." *Gallant v. Heckler*, 753 F.2d 1450, 1456 (9th Cir. 1984).



1 Plaintiff contends the ALJ's hypothetical question posed to the vocational  
2 expert did not adequately express the full extent of her limitations. ECF No. 16 at 19-  
3 20. Specifically, Plaintiff contends the question posed did not adequately account for  
4 the opinion of Dr. Degooyer; Plaintiff's cognitive limitations; Plaintiff's need to miss  
5 work for medical treatment; or the limitations associated with Plaintiff's cervical  
6 spondylosis, degenerative disease, and facet arthropathy. *Id.*

7 The Court is unpersuaded that the ALJ failed to include the full extent of  
8 Plaintiff's limitations in the hypothetical. First—regarding Dr. Degooyer's opinion  
9 and Plaintiff's need to miss work for medical treatment regarding her neck pain—  
10 Plaintiff's contention is derivative of her arguments concerning the ALJ's rejection  
11 of her credibility and Dr. Degooyer's medical opinion. Given that the ALJ  
12 properly rejected this evidence, no error has been shown. Second, in regards to  
13 Plaintiff's cognitive limitations, the ALJ incorporated Plaintiff's limitations in the  
14 hypothetical to the extent the record supported these limitations. Tr. 54; *see* Tr. 22  
15 (finding that by August 2010, Plaintiff's memory issues had improved). Finally—  
16 regarding her limitations associated with cervical spondylosis, degenerative  
17 disease, and facet arthropathy—the ALJ properly incorporated these limitations  
18 into her hypothetical and RFC finding to the extent the limitations were credible.  
19 Tr. 74-75. In light of these limitations, the ALJ found Plaintiff was capable of a  
20 reduced range of light work. Tr. 23. Plaintiff has failed to detail what further

1 limitations were warranted had the ALJ classified these conditions as severe at step  
2 two. *See* ECF No. 16 at 20; *see also Lewis v. Astrue*, 498 F.3d 909, 911 (9th Cir.  
3 2007) (holding that ALJ's failure to list plaintiff's bursitis as a severe impairment at  
4 step two was harmless where ALJ considered limitations caused by the condition  
5 at step four). Therefore, no reversible error has been shown.

6 Accordingly, because the ALJ properly incorporated all Plaintiff's credible  
7 symptoms, limitations, and the objective and opinion evidence in her questions to  
8 the vocational expert, *see* Tr. 74-76 (posing hypotheticals that accounted for  
9 Plaintiff's physical and cognitive limitations), no error has been shown.

10 **Accordingly, IT IS HEREBY ORDERED:**

- 11 1. Plaintiff's Motion for Summary Judgment (ECF No. 16) is **DENIED**.  
12 2. Defendant's Motion for Summary Judgment (ECF No. 20) is  
13 **GRANTED**.

14 The District Court Executive is hereby directed to enter this Order, enter  
15 **JUDGMENT** for Defendant, provide copies to counsel, and **CLOSE** the file.

16 **DATED** October 30, 2014.



*Thomas O. Rice*  
THOMAS O. RICE  
United States District Judge